IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 1651 of 2007(V)

PETITIONER:

B. KRISHNA KUMAR,
PLOT NO.6, SANTHI NAGAR, RAJAGIRI P.O.,
SOUTH KALAMASSERY.

BY ADV. SRI.K.SURENDRA MOHAN

RESPONDENTS:

1. **THE REGISTRAR OF CO-OPERATIVE SOCIETIES,**
   OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
   THIRUVANANTHAPURAM.

2. **THE JOINT REGISTRAR OF CO-OPERATIVE**
   SOCIETIES (GENERAL), ERNAKULAM.

3. **THE UNIT INSPECTOR,**
   MARADU, OFFICE OF THE ASSISTANT REGISTRAR OF
   CO-OPERATIVE SOCIETIES, KANAYANNUR, CHITTOOR ROAD,
   KOCHI-682 016.

4. **THE FACT MANAGERIAL STAFF HOUSE**
   CONSTRUCTION CO-OPERATIVE SOCIETY LTD.NO.E.243,
   SANTI NAGAR ANNEXE,RAJAGIRI P.O.,SOUTH KALAMASSERY,
   KOCHI-683 104, REPRESENTED BY ITS SECRETARY.

***ADDL.R5 TO R14 ARE IMPLEADED:**

R5. S.JAYATHILAKAN, S/O.K.SREEDHARAN NAIR,
"KARTHIKA", FRANKLIN GARDEN, KUTTYKATTUKARA.

R6. V.MOHAMMED JAMAL,
B F 38, FACT TOWNSHIP,
UDYOGAMANDAL P.O.

...2/-

R7. M.K.AUGUSTINE,
MANJATHENUMKATTIL HOUSE,
CHUNANGANVELI, ALUVA.

R8. T.K.CHANDRAGUPTHAN,
THACHEDATH VANIYAMKOTTIL HOUSE,
ELOOR SOUTH, UDYOGAMANDAL P.O. 683 501.

R9. JOE ANTONY,
THENAMKADATH HOUSE, PUTHENPALLY,
VARAPUZHA P.O.

R10. BAILY J.,
FACT MAINTAB, FACT LTD.,
UDYOGAMANDAL – 683 501.

R11. CHARLY JOSEPH,
Q5/28, FACT TOWNSHIP,
UDYOGAMANDAL P.O. 683 501.

R12. M.K.KALADHARAN,
B 27, FACT TOWNSHIP,
UDYOGAMANDAL P.O. 683 501.

R13. T.REGHUMOHAN KUMAR,
BHAVANI, H.NO.30/555,
PARAYIL ROAD, ELAMAKKARA.

R14. V.T.BAJI, ASST.ENGINEER,
RAJIV GANDHI CONTAINER TERMINAL, KOCHI.

(ADDL.R5 TO R14 ARE IMPLEADED AS PER ORDER DTD.
15/02/2007 IN I.A.NO.2442/07)

BY ADV. SRI.P.SANTHALINGAM
SRI.S.SHARAN
SRI.A.D.SHAJAN for Addl.R5 to R14
SMT.K.USHA for Addl.R5 to R14
BY SR.GOVT.PLEADER SRI. P.K. RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF BY-LAWS OF THE SOCIETY.

EXT.P2; COPY OF JUDGMENT DTD. 28/10/2004 OF THE HON'BLE HIGH COURT OF KERALA IN W.P.(C) NO.27807/2004-I.

EXT.P3: COPY OF REPORT DTD. 25/04/2005.

EXT.P4: COPY OF PETITIONER'S REPRESENTATION DTD. 10/10/2006.

4TH RESPONDENT'S EXHIBITS:

EXT.R4(A): COPY OF THE RELEVANT EXTRACT OF THE REPORT OF FACT MANAGERIAL STAFF HOUSE CONSTRUCTION CO-OP.SOCIETY LTD. SOUTH KALAMASSERY.

EXT.R4(B): COPY OF THE LEGAL OPINION DTD. 2/06/2004 SENT BY N.G.RAMACHANDRAN, ADVOCATE TO THE PRESIDENT, FACT MSHCCS LTD. NO.E 243.

EXT.R4(C): COPY OF THE LETTER NO.SCA/SST/DIR/296/04 DTD. 7/06/2004 ISSUED BY SUDARSAN CLAY AND CERAMICS LIMITED.

EXT.R4(D): COPY OF THE AGREEMENT DTD. 7/07/2004 EXECUTED BETWEEN SUDARSAN CLAY AND CERAMICS LTD. AND THE FACT MANAGERIAL STAFF HOUSE CONSTRUCTION CO-OP. SOCIETIES LTD.NO.E.243.

EXT.R4(E): COPY OF THE ORDER DTD. 26/10/05 IN WP(C) NO.29409/05 IN THE HIGH COURT OF KERALA, ERNAKULAM.

EXT.R4(F): COPY OF THE RESOLUTION DTD. 19/03/2005 PASSED BY THE 37TH GENERAL BODY MEETING OF THE FACT MSHCCS LTD. NO.E 243.

EXT.R4(G): COPY OF THE RESOLUTION DTD. 27/03/2006 PASSED BY FACT MSHCCS LTD. NO. E 243.

5TH RESPONDENT'S EXHIBITS:

EXT.R5(A): COPY OF THE CANCELLATION LETTER NO.SCA/SST/DIR/296/04 DTD. 7/06/04 ISSUED BY SCCL TO SAFE CARE ASSOCIATES.

...2/-

EXT.R5(B); COPY OF THE MEMORANDUM SUBMITTED BY THE MEMBERS TO THE 2ND RESPONDENT.

EXT.R5(C): COPY OF THE LEGAL OPINION DTD. 2/06/04 FROM ADV. N.V. RAMACHANDRAN.

EXT.R5(D): COPY OF THE STAY ORDER IN I.A.NO.2083/04 IN OS NO.252/04 IN THE SUB COURT, NORTH PARAVUR.

EXT.R5(E): COPY OF THE ORDER NO.H.M/3793/04 DTD. 10/09/04 IN THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES.

EXT.R5(F): COPY OF THE JUDGMENT IN W.A.NO.46/05 AGAINST THE JUDGMENT IN WP(C) 32317/04 DTD. 4/11/04 IN THE HIGH COURT OFKERALA AT ERNAKULAM.

EXT.R5(G); COPY OF THE RESOLUTION PASSED BY THE 37TH GENERAL BODY MEETING OF THE FACT MANAGERIAL STAFF HOUSE CONSTRUCTION CO-OP.SOCIETY LTD. NO.E 243 DTD. 19/03/2005.

EXT.R5(H): COPY OF THE RESOLUTION PASSED IN THE ANNUAL GENERAL BODY MEETING OF THE FACT MANAGERIAL STAFF HOUSE CONSTRUCTION CO-OP.SOCIETY LTD. NO.E 243 DTD. 27/03/2006.

EXT.R5(I); COPY OF THE RESOLUTION PASSED BY THE MEETING OF THE MEMBERS OF THE FACT MSHC CO-OP.SOCIETY LTD. DTD. 19/03/2005.

/TRUE COPY/

KSS

S. SIRI JAGAN, J.

W.P.(C)NO. 1651 OF 2007

DATED THIS THE 5th DAY OF MARCH, 2007

JUDGMENT

The petitioner has approached this Court seeking the following reliefs:

> "A. To call for the records and proceedings of the respondents relating to exhibit P-3 report and exhibit P-4 representation of the petitioner and after scrutiny thereof, to direct respondents 1 and 2 to pass appropriate orders removing the present officer bearers of the 4th respondent-Society and appointing an Administrator for the proper management of the affairs of the Company by the issue of a writ of mandamus or any other appropriate writ order or direction;
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> B. To direct the respondents 1 and 2 to do all that is necessary to ensure that the 4th respondent does not go ahead with its project of purchase of land from M/s. Sudarshan Clay and Ceramics Ltd. at the price agreed to by it, and to return the amounts collected from prospective purchasers in respect of the said project within a specified time;
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> C. To grant any other further or consequential orders, including any interim orders, as may be prayed for and deemed fit by this Hon'ble Court; and
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> D. To allow this Writ Petition with costs.

2. The contention of the petitioner is that by Ext.P2 judgment

this Court had directed an enquiry in certain writ petitions filed by certain persons and by Ext.P2 common judgment the Joint Registrar was directed to continue the enquiry and pass appropriate orders. It appears that Section 65 enquiry was conducted pursuant to Ext.P2 judgment and a report has been filed. Based on that report, the Joint Registrar appointed an enquiry officer for conducting an enquiry under Section 68(1) of Kerala Co-operative Societies Act. That order was subject matter of writ petition Nos. 29409/05, 31927/05 and 3143/05. Learned Single Judge by a common judgment dated, 15.2.07, set aside that order and directed passing of fresh orders by the Joint Registrar after considering the sufficiency of Ext.P1 Enquiry report under Section 65.

3. In view of the said decision, I am satisfied that no further orders are necessary in this writ petition, especially since the petitioner is not a member of the Society but only former member of the Society and his locus standi itself to file this writ petition is very much in doubt.

Accordingly, this writ petition is closed.

S. SIRI JAGAN, JUDGE

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